IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4314 of 2007()

CRIME NO.209/07 OF PERAMBRA POLICE STATION

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PETITIONER/ACCUSED NO.1

P.SUNIL KUMAR, S/O.M.JANARDHANAN,
AGED 29 YEARS, PONPAREMMAL HOUSE, PERAMBRA,
KOZHIKODE.

BY ADV. SRI.NIDHI BALACHANDRAN

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE, PERAMBRA
POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4314 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. He, along with his relatives, faces allegations under Section 498A I.P.C. His relatives have already been granted anticipatory bail by the learned Sessions Judge. But the petitioner's application for anticipatory bail was dismissed.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is strain in the matrimonial relationship. Because of such strain fanciful and exaggerated allegations are being raised. It is true that there is an abortion. But there is no evidence to show that it was because of any act on the part of the petitioner. Allegations to that effect are now being raised belatedly. In these circumstances direction under Section 438 Cr.P.C. may be issued in favour of the petitioner, prays the counsel.

3. The learned Prosecutor, after taking instructions and perusing the case diary, does not seriously oppose the application. He only submits that appropriate conditions may be imposed.

4. The allegation of the petitioner kicking the victim and the victim suffered abortion is not indicated at the moment from the materials available in the case diary. That submission of the Prosecutor persuade me to hold that directions under Section 438 Cr.P.C. can be issued in favour of the petitioner.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 24.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that the petitioner executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 25.7.07 and 26.7.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 24.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 24.7.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 24.7.2007.

(R. BASANT)
Judge

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